



FH
[REDACTED]

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

CCO/171397

PRELIMINARY RECITALS

Pursuant to a petition filed January 14, 2016, under Wis. Admin. Code § HA 3.03, to review a decision by the Racine County Department of Human Services in regard to Child Care, a hearing was held on February 11, 2016, at Racine, Wisconsin.

The issue for determination is whether the agency correctly assessed a child care overpayment in the amount of \$97.28 for the period of September 1, 2013 to September 30, 2013.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

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Respondent:

Department of Children and Families
201 East Washington Avenue, Room G200
Madison, Wisconsin 53703

By: [REDACTED]
Racine County Department of Human Services
1717 Taylor Ave
Racine, WI 53403-2497

ADMINISTRATIVE LAW JUDGE:

Corinne Balter
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Racine County. She is a household of two for purposes of this childcare overpayment. Her household consists of herself and her child.

2. On January 7, 2016 the agency sent the petitioner a notice stating that, under claim number [REDACTED], she was overpaid \$97.28 in childcare benefits for the period from September 1, 2013 to September 30, 2013.
3. Previously, on July 11, 2013, the agency sent the petitioner a notice stating that she was eligible for childcare benefits, and that she had 10 days to report any change in her household that may change her eligibility for childcare assistance.
4. In July 2013 the petitioner's actual household monthly gross income was \$1,875.33. The agency had only budgeted \$571.04 based upon the petitioner's previous reports. The petitioner did not report this increase in income to the agency.
5. In September 2013 the agency paid \$244.72 in childcare benefits for the petitioner. Given the petitioner's increase in income, she was only eligible for \$147.44 in childcare benefits. The difference between what the agency paid, and what the petitioner was eligible for is \$97.28.
6. On January 19, 2016 the Division of Hearings and Appeals received the petitioner's Request for Fair Hearing.

DISCUSSION

Wis. Stat., §49.195(3), provides as follows:

A county, tribal governing body, Wisconsin works agency or the department shall determine whether an overpayment has been made under s. 49.19, 49.148, 49.155 or 49.157 and, if so, the amount of the overpayment.... Notwithstanding s. 49.96, the department shall promptly recover all overpayments made under s. 49.19, 49.148, 49.155 or 49.157 that have not already been received under s. 49.161 or 49.19(17) and shall promulgate rules establishing policies and procedures to administer this subsection.

Child care subsidies are authorized in Wis. Stat., §49.155, and thus they are within the parameters of §49.195(3). Recovery of child care overpayments also is mandated in the Wis. Admin. Code, §DCF 101.23. An overpayment is any payment received in an amount greater than the amount that the assistance group was eligible to receive, regardless of the reason for the overpayment. Wis. Admin. Code, §DCF 101.23(1)(g). Recovery must occur even if the error was made by the agency, but if so it only goes back one year from the notification date. Wisconsin Shares Child Care Assistance Manual, §2.5.1.2.

In this case the petitioner began a new job, and her income increased significantly. This increase in income impacted the petitioner's eligibility for childcare assistance. Although she was still eligible for assistance, she had to pay a greater amount out of pocket. She failed to report her increase in income, which caused this overpayment.

The petitioner argues that she completed and returned every form that the agency sent her. This is not enough. The July 2013 notice specifically stated that the petitioner had an obligation to report any change that may impact her eligibility for child care assistance. Her monthly income increased from \$571.04 to \$1,875.33, and she failed to report that to the agency.

CONCLUSIONS OF LAW

The agency correctly assessed a child care overpayment in the amount of \$97.28 for the period of September 1, 2013 to September 30, 2013.

THEREFORE, it is

ORDERED

That the petition is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

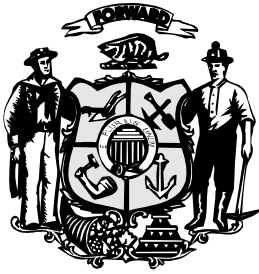
APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Children and Families, 201 East Washington Avenue, Room G200, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 4th day of March, 2016

\sCorinne Balter
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on March 4, 2016.

Racine County Department of Human Services
Public Assistance Collection Unit
Child Care Fraud